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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,667	01/24/2001	Takeo Hoda	05058/02806	4380

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SIDLEY AUSTIN LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS, TX 75201

EXAMINER

NGUYEN, HUY THANH

ART UNIT PAPER NUMBER

2621

DATE MAILED: 11/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 09/768,667	Applicant(s) HODA ET AL.	
	Examiner HUY T. NGUYEN	Art Unit 2621	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 42, 44, 46, 56 and 57.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See page 2.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____.

Response to Arguments

1. Applicant's arguments filed 13 October 2006 have been fully considered but they are not persuasive.

Applicants argue that "The present application discloses a camera capable of recording an image in both a first memory, which is a memory card detachably installed inside the camera body, and a second memory, which is fixedly installed inside the camera body. In such a camera, generally, the first memory and the second memory are used for different purposes. Namely, the first memory is used as a main memory and the second memory is used as a spare memory. A user primarily records image information of taken pictures in the first memory. However, when a user cannot record the image information in the first memory (for example when the memory card is full, and a spare card is not available), the second memory is used to record the image information. An image which is important for a user is assumed to be primarily recorded in the first memory rather than in the second memory. Thus the present invention is advantageous in that reproduction of the important images is more convenient, because the images stored in the first memory are reproduced with priority over images in the second memory."

In response it is submitted that the applied prior art teaches that the first memory or second memory can be primarily selected to record the images and can be selected to reproduce the images with priority over one other since the recording and reproducing the images on and from the first memory or second memory is under controlling by a user via the apparatus controller (changer means). Since the

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claims do not specify how the first memory is automatically controlled to reproduce the recorded images based on the status of second memory, the teaching of the prior art meet the claim limitation.

Applicants further argues that " This feature of the invention is present in previously amended claim 42 which recites, inter alia, "a controller for controlling the reproduction device so that image information in the second memory is reproduced by the reproduction device when the detector detects that the first memory is not attached, while image information in the first memory is preferentially reproduced by the reproduction device when the detector detects that the first memory is attached." The office action does not even allege that the prior art teaches or suggests that images from a memory card are "preferentially reproduced" when the controller detects that a memory card is attached. Accordingly, it is respectfully submitted that a prima facie case of obviousness has not been established against claim 42."

In response, the examiner disagrees. It is noted that the applied prior art teach that a user of a camera can select either the first memory or and second memory, via a camera controller, to be operated for recording or reproducing the images on and from the first memory or second memory. When a memory can not be used or is detected not be used, the user can select the other one to record or reproduce the images. Since the claims do not specify how the images on the first memory or second memory can be preferentially reproduced, the applied prior art meet the claims.

Applicants agree that " It appears that the present office action merely reiterates the rejections made in the prior office action without taking into consideration, any of the amendments and/or arguments. For example, in rejecting claim 42 the present office action discusses claim elements which are no longer present, e.g., "first storing means ...", "changer means ...", . In response it is noted that changing the first memory means to the first memory and changer to the controller in claim 42 does not change the scope of the claims therefore the first memory means , second memory means and changer means as taught by the applied prior art stated the final office action still meet the limitation of the amended claim 42. Further , it is noted that in the final Office action at page 4 lines 12-17 and page 6, lines 7-14, the examiner has explained how the applied prior art met the claim 42.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

H.N


HUY NGUYEN
PRIMARY EXAMINER